

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Peterson Post Office
Peterson, Minnesota

Docket No. A2012-113

ORDER AFFIRMING DETERMINATION

(Issued April 27, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On January 6, 2012, Jennifer M. Wood (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Peterson, Minnesota post office (Peterson post office).² The Final Determination to close the Peterson post office is affirmed.³

II. PROCEDURAL HISTORY

On January 20, 2012, the Commission established Docket No. A2012-113 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On January 23, 2012, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶ On March 16, 2012, the Public Representative filed comments.⁷

² Petition for Review received from Jennifer M. Wood, Mayor, regarding the Peterson, Minnesota post office 55962, January 6, 2012 (Petition).

³ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁴ Order No. 1156, Notice and Order Accepting Appeal and Establishing Procedural Schedule, January 20, 2012.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, January 23, 2012 (Administrative Record). The Administrative Record includes, as Item No. 35, the Final Determination to Close the Peterson, MN Post Office and Extend Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, March 1, 2012 (Postal Service Comments).

⁷ Comments of the Public Representative, March 16, 2012 (PR Comments).

III. BACKGROUND

This appeal contains one of the first administrative records generated for a post office closing appeal since the Postal Service implemented its new closing procedures. While the Postal Service may change its procedures, the Final Determination in this appeal is missing certain relevant information that the Commission has found helpful in reviewing previous appeal cases: the number of post office boxes available at the receiving post office;⁸ lobby access hours at both the closing and the receiving post office; and whether there are permit customers.⁹ While the number of post office box customers, and whether delivery customers are served, does not appear in the body of the Final Determination, the information may be found in the summary section. Final Determination at 9.

The omissions in this appeal are *de minimis*, an apparent by-product of newly-implemented procedures, and do not materially affect any party. However, going forward, it is expected that the Postal Service will ensure the administrative records and final determinations to close post offices are complete and contain all the information necessary for appellate review of the Postal Service's decision.

The Peterson post office provides retail postal services and service to 63 post office box customers. No delivery customers are served through this post office. *Id.* The Peterson post office, an EAS-11 level facility, provides retail service from 7:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., Monday through Friday, and 9:00 a.m. to 11:00 a.m. on Saturday. *Id.* at 2.

The postmaster position became vacant on June 24, 2008 when the Peterson postmaster was reassigned. *Id.* A temporary officer-in-charge (OIC) was installed to operate the post office. *Id.* at 8; Postal Service Comments at 12. The Peterson post

⁸ In a precursor document, "Proposal to Close the Peterson, MN Post Office and Establish Service by Community Post Office," Administrative Record, Item No. 17, the number of post office boxes is presented. This information did not carry over to the Final Determination.

⁹ There is a Postal Service response to a customer concern in the Final Determination that indicates there may be a permit customer, but no other discussion. Final Determination at 5, Concern No. 15.

office has had a declining workload and “[t]here are a number of alternate sites within a short radius of this office that can provide the sale of stamps and the mailing of most package items.” Final Determination at 2. Post office receipts for the last 4 years were \$33,259 in FY 2007; \$39,776 in FY 2008; \$23,320 in FY 2009; and \$22,883 in FY 2010. *Id.* There is one permit customer. *Id.* at 5, Concern No. 15. By closing this post office, the Postal Service anticipates savings of \$63,037 in the first year and \$533,427 over a 10-year period. *Id.* at 8; Administrative Record, Item No. 8 at 1.

After the closure, retail services will be provided by the Rushford post office located approximately 4 miles away.¹⁰ Final Determination at 2. Delivery service will be provided by rural carrier route service through the Rushford post office. The Rushford post office is an EAS-16 level post office, with retail hours of 9:00 a.m. to 12:30 p.m. and 1:30 p.m. to 4:00 p.m., Monday through Friday, and 10:00 a.m. to 11:45 p.m. on Saturday. *Id.* Two-hundred-thirty-four (234) post office boxes are available at the Rushford post office. Administrative Record Item, No. 17 at 2. The Postal Service will continue to use the Peterson name and ZIP Code. Final Determination at 6, Concern No. 24.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Peterson post office. Petitioner states the post office is vital to current and future businesses in Peterson. Petition at 1. Petitioner also states it will be difficult for senior citizens to drive to the Rushford post office, particularly in the winter months. *Id.*

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Peterson post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Peterson community; and (3) the economic savings

¹⁰ MapQuest estimates the driving distance between the Peterson and Rushford post offices to be approximately 4.53 miles (6 minutes driving time).

expected to result from discontinuing the Peterson post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Peterson post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Peterson post office was based on several factors, including:

- the postmaster vacancy;
- low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact on the community; and
- expected financial savings.

Id. at 6. The Postal Service contends that it will continue to provide regular and effective postal services to the Peterson community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, the effect on the Peterson community, economic savings, and the effect on postal employees. *Id.* at 6-13.

Public Representative. The Public Representative argues the case should be remanded since the Postal Service failed to adequately consider the economic savings and failed to sufficiently consider its ability to provide regular and effective postal services. PR Comments at 2-3.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal

Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On June 15, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Peterson post office. Final Determination at 2. A total of 336 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 92 questionnaires were returned. On July 13, 2011, the Postal Service held a community meeting at the Rushford-Peterson Middle School to address customer concerns. Thirty-eight (38) customers attended. *Id.*

The Postal Service posted the proposal to close the Peterson post office with an invitation for comments at the Peterson and Rushford post offices from August 15, 2011 through October 16, 2011. *Id.* The Final Determination was posted at the same two post offices from December 8, 2011 through January 9, 2012. Administrative Record, Item No. 36.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Peterson, Minnesota is an incorporated community located in Filmore County, Minnesota. Final Determination at 7. The community is administered politically by the Peterson City Council. Police protection is provided by the Filmore County Sheriff's Department. Fire protection is provided by the Rushford Fire Department. The community is comprised of farmers, retirees, self-employed persons, and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 20 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Peterson community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Peterson post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 7.

For customers concerned about the loss of community identity, the Postal Service states it has addressed this concern by continuing the use of the Peterson name and current ZIP Code in mail addresses. Postal Service Comments at 11. Petitioner states the closing will cause difficulties for businesses in Peterson. Petition at 1. The Postal Service states most businesses do not depend on the location of a post office, but on the regular and effective postal services. Postal Service Comments at 11. The Postal Service contends the rural carrier service, plus the full range of alternatives for access to retail services are adequate to support the existing business community and any future growth. *Id.*

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Peterson postmaster was reassigned on June 24, 2008 and that an OIC has operated the Peterson post office since then. Final Determination at 8; Postal Service Comments at 12-13. It asserts that after the Final Determination is implemented, the temporary OIC may be separated and that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Peterson post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Peterson customers. Postal Service Comments at 6. It asserts that customers of the closed Peterson post office may obtain retail services at the Rushford post office located 4 miles away. Final Determination at 2. Delivery service will be provided by rural carrier route service through the Rushford post office. *Id.*

For customers choosing not to travel to the Rushford post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 7-8. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioner states it will be difficult for senior citizens to travel to another post office, especially in the winter months. Petition at 1. The Postal Service states, however, that carrier service is beneficial to many senior citizens and those who face special challenges because they do not have to travel to the post office for service. Postal Service Comments at 8.

Several customers raised concerns about mail security on the questionnaires. *See generally* Administrative Record, Item No. 20. The Postal Service states that customers can mitigate the risk of theft by installing locks. Postal Service Comments at 9. The Postal Service also notes there was only one report of vandalism. The Postal Service concludes that Peterson customers will continue to receive regular and effective service via rural carrier delivery service emanating from the Rushford post office. *Id.*

The Public Representative contends the Postal Service has not sufficiently considered the impact of closing the Peterson post office on maintaining effective and regular postal services since the Postal Service did not state how many post office boxes are available at the Rushford post office, the proposed administrative post office, should all 63 current post office box customers want to continue this service. PR Comments at 5. The Postal Service did not state the number of post office boxes available at the Rushford post office in the Final Determination; however, the Postal Service did note many customers indicated that they pass through Rushford on a daily basis and, thus, they could easily access postal services at the Rushford post office. Postal Service Comments at 7.

In the Proposal to close the Peterson post office, the Postal Service identifies 234 available post office boxes in Rushford. Administrative Record, Item No. 17 at 2. The Postal Service also notes that delivery and retail services may be available from a rural delivery carrier alleviating the need to travel to another post office. *Id.*

As the Commission has noted previously, the Postal Service should ensure that an adequate number of post office boxes will be available at nearby post offices to meet demand.¹¹

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates a first year savings of \$63,037. *Id.*, Item No. 8. It derives the first year savings estimate figure by summing the following costs: postmaster salary and benefits (\$64,567), rent (\$4,500), utilities (\$1,516), and contracts (\$247), minus estimated replacement costs (\$7,793). *Id.* It also provides a 10-year net present value savings estimate of \$533,427. Final Determination at 8.

Petitioner challenges the savings and contends closing the Peterson post office will not save the Postal Service money in the long run. Petition at 1. The Public Representative contends the Postal Service fails to explain the transportation component of the proposal. PR Comments at 3. In addition, the Public Representative challenges the Postal Service's use of the postmaster salary and benefits since the postmaster retired in 2008. *Id.* at 4. While the Public Representative also contends the Postal Service did not explain the contract cost component, he acknowledges that these costs are relatively small and will have little impact on the total amount of economic savings. *Id.*

The Postal Service argues that while the savings may seem insignificant to Petitioner, they are significant to the overall cost reduction focus of the Postal Service. Postal Service Comments at 12. The Postal Service also states the estimates are supported by record evidence and are in accordance with the Postal Service's statutory obligations. *Id.*

¹¹ See Docket No. A2012-2, Order No. 1167, Order Affirming Determination, January 24, 2012 at 9-10; Docket No. A2011-98, Order No. 1137, Order Affirming Determination, January 17, 2012; Docket No. A2011-75, Order No. 1114, Order Affirming Determination, January 9, 2012 at 9; Docket No. A2011-66, Order No. 1107, Order Affirming Determination, January 5, 2012 at 8.

The Peterson post office postmaster was reassigned on June 24, 2008. Final Determination at 2, 8. The post office has since been staffed by a temporary OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Peterson post office has been staffed by an OIC for approximately 3-1/2 years, even if the OIC salary were used, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The transportation costs listed in the economic savings analysis identify the costs of replacement service. In other words, the transportation costs are the costs of extending rural carrier delivery service to the customers of the Peterson post office. Final Determination at 8. These costs, which are relatively small, will have little impact on the total amount of economic savings.¹² The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Peterson post office is affirmed.¹³

¹² As noted, the Postal Service used its new Handbook 101 procedures in this case. The cost estimates (Administrative Record, Item No. 8) are compiled on a summary sheet. Under the previous procedures, cost estimates also included backup calculations or other data. See PS Form 4920. Recognizing that the process is new and notwithstanding that the record in this case is sufficient, it would be helpful in future appeals cases for the record to include more of the information previously included as support for its savings estimates.

¹³ See footnote 3, *supra*.

It is ordered:

The Postal Service's determination to close the Peterson, Minnesota post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Peterson post office has been operated by an officer-in-charge (OIC), currently a non-career postmaster relief, since the former postmaster was promoted on June 24, 2008. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

A non-career OIC has been in place for nearly 4 years. Given this extended period of time, and the Postal Service's current financial difficulties, it is clear that the Postal Service has no obligation to maintain a full-time postmaster in small facilities such as Peterson. Upon closure of the facility, the Postal Service may, at most, avoid continuing to pay the OIC level salary.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered

evaluation of potential savings.

Further, I fully agree with the concerns expressed by Vice Chairman Langley that the Administrative Record, as presented, relying on the new procedures adopted by the Postal Service, omits several types of important information necessary to make a Final Determination that meets the requirements of the law. Like my colleague, I am concerned that the Postal Service does not fully explain the various components of its analysis, such as transportation costs, rent, contracts, or one-time relocation costs. Nor does the Postal Service provide an explanation of how the costs of replacement service are calculated. The full complements of data elements that had been provided previously should be the minimum information documented under the new procedures.

I am also concerned about a significant ambiguity in the Administrative Record regarding the type of replacement service to be provided to the residents and businesses in Peterson. The title of the Proposal to Close (Administrative Record, Item No. 17) was to “provide delivery and retail services by Community Post Office.” The Log of Post Office Discontinuance Actions (*id.*, Item No. 26) identified providing a Community post office. In contrast, the letter to customers (*id.*, Item No. 10), a subsequent Log of Post Office Discontinuance Actions (*id.*, Item No. 29) and the Final Determination (*id.*, Item No. 35) described service provided by rural route service. The responsibility of the Postal Service to provide proper notice to the community requires provision of accurate and reliable information on the proposed replacement service.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Peterson, Minnesota and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility for nearly 4 years, since June 2008, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. In addition, it has not adequately explained the basis for its estimated savings for rent or contracts; nor is the estimated cost of transportation, presumably for replacement service, supported. See Administrative Record, Item Nos. 8, 9.

The Postal Service indicates that the discontinuance process for the Peterson post office was conducted using Handbook PO-101, dated July 2011. Postal Service Comments at 1 n.1. This is one of the first appeals heard by the Commission that reflects the new post office closing evaluation procedures implemented by the Postal Service last summer. Aside from the merits of particular issues raised by Petitioner, I believe it may be helpful if I offer some general comments on the sufficiency of the Administrative Record developed using the new procedures. The information provided under the new process appears to differ in some important respects from that provided under the pre-existing process. For example, PS Form 4920 is revised and omits information relevant to the facility, *e.g.*, whether the post office being closed is staffed by a career or non-career OIC; the lease term and termination rights, if any; the number of available post office boxes at the replacement post office; and its hours of operation. In my view, both the Postal Service and the public would be better served if the Postal Service would make PS Form 4920 more inclusive.

Similarly, the Administrative Record also includes a new methodology for calculating the estimated savings for the discontinuance of the Peterson post office. However, the Postal Service does not fully explain the various components of its analysis, such as transportation costs, rent, contracts, or one-time relocation costs.

See Administrative Record, Item No. 8, Financial Worksheet. Thus, for example, there is no information about the lease term or cancelation provision, if any. New Item No. 9, Recommendation and Service Replacement Type, is devoid of any information about service replacement costs, serving merely as a placeholder.

On numerous occasions, I have emphasized the need for savings to be accurately reflected. For the Commission to determine if the Postal Service has truly considered the economic savings, it would be beneficial for the Postal Service to provide an explanatory statement in support of its estimates. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Peterson post office and should be remanded.

Nanci E. Langley